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7 JUDGE BENJAMIN H. SETTLE
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17 UNITED STATES DISTRICT COURT
18 FOR THE WESTERN DISTRICT OF WASHINGTON
19 AT TACOMA
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UNITED STATES OF AMERICA,)
)
 Plaintiff,) No. C13-5169-BHS
)
 vs.) ANSWER OF CLAIMANT
) DELBERT WHEELER AND
\$23,460.00 IN UNITED STATES) JURY DEMAND
CURRENCY, ET AL.,)
)
 Defendants.)
)
)

COMES NOW Claimant DELBERT L. WHEELER, and for answer to Plaintiff's
Verified Complaint for Forfeiture, alleges as follows:

1. Answering Paragraph 1, Claimant admits that this is an action to forfeit the
described property for alleged violations of federal statutes.
2. Answering Paragraph 2, Claimant admits the same.
3. Answering Paragraph 3, Claimant admits the same.
4. Answering Paragraph 4, Claimant admits the same.
5. Answering Paragraphs 5A through 5D, Claimant admits the same.
6. Answering Paragraph 6, Claimant admits the same.

ANSWER OF CLAIMANT DELBERT
L. WHEELER AND JURY DEMAND;
NO. C13-5169BHS - 1

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1 7. Answering Paragraph 7, Claimant admits the same.
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3 8. Answering Paragraph 8, Claimant admits the same.
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5 9. Answering Paragraphs 9A through 9F, Claimant admits the same.
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7 10. Answering Paragraph 10, Claimant admits the same.
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9 11. Answering Paragraph 11, Claimant is without knowledge or information
10 sufficient to form a belief as to the truth of the allegations set forth in said paragraph, and
11 therefore denies the same.
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13 12. Answering Paragraph 12, Claimant is without knowledge or information
14 sufficient to form a belief as to the truth of the allegations set forth in said paragraph, and
15 therefore denies the same.
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17 13. Answering Paragraph 13, Claimant admits that additional facts are set forth in
18 the Affidavit of ATF Task Force Officer J. Mark Keller, and attachments referenced therein,
19 attached to the Complaint as Exhibit 3. Claimant is unable to respond to the Affidavit
20 because it fails to set forth a single set of circumstances in separately numbered paragraphs
21 as required by Fed.R.Civ.P. 10(b). Claimant therefore denies each and every allegation set
22 forth therein.
23

24 14A. Answering Paragraph 14A, Claimant denies the same.
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26 14B. Answering Paragraph 14B, Claimant denies the same.
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28 **AFFIRMATIVE DEFENSES:**

29 BY WAY OF AFFIRMATIVE DEFENSES, Claimant alleges as follows:
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31 15. Plaintiff has failed to state a cause of action upon which relief may be granted.
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33 16. Claimant's interest in the defendant properties is not subject to forfeiture because
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the relief Plaintiff seeks against Claimant, a member of the Yakama Nation who lives and works on Yakama Nation trust lands, conflicts with the protections guaranteed to Claimant under federal law, including the Constitution of the United States and the 1855 Yakama Treaty as ratified by the United States on March 8, 1859, 12 Stat. 951.

17. Claimant's interest in the defendant properties is not subject to forfeiture because any act or omission giving rise to forfeiture was committed or omitted without Claimant's knowledge or consent.

18. The forfeiture of Claimant's interest in the defendant properties would violate
the Eighth Amendment Excessive Fines Clause.

JURY DEMAND

WHEREFORE, Claimant prays for judgment as follows:

1. That Plaintiff's complaint be dismissed, with prejudice, and without costs;
 2. For Claimant's reasonable attorneys fees and costs incurred herein;
 3. For such other and further relief as the court deems just and proper.

DATED this 24 day of April, 2013.

RICHARD J. TROBERMAN, P.S.

By:

~~RICHARD J. TROBERMAN~~
WSB #6379

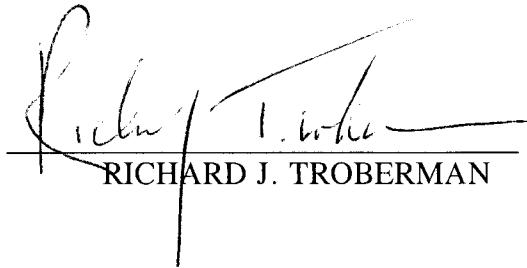
Attorney for Claimant Delbert L. Wheeler

**ANSWER OF CLAIMANT DELBERT
L. WHEELER AND JURY DEMAND;
NO. C13-5169BHS - 3**

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2 CERTIFICATE OF SERVICE
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4 I hereby certify that on April 26, 2013, I electronically filed the foregoing
5 "ANSWER OF CLAIMANT DELBERT L. WHEELER AND JURY DEMAND" with the
6 Clerk of Court using the CM/ECF system which will send notification of such filing to the
attorneys of record in this case.

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8 RICHARD J. TROBERMAN
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**ANSWER OF CLAIMANT DELBERT
L. WHEELER AND JURY DEMAND;
NO. C13-5169BHS - 4**

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